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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2068

MITCHELL P. WATSON
4792 Tiara Drive
Condo #202
Huntington Beach, CA 92649

A C C U S A T I O N

Respiratory Care Practitioner
License No. 9271

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.
2. On or about August 16, 1985, the Respiratory Care Board issued Respiratory Care Practitioner License No. 9271 to Mitchell P. Watson (Respondent). The Respiratory Care Practitioner License expired on November 30, 2005, and has not been renewed.

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3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 3710 of the Code states, in pertinent part: “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

5. Section 3718 of the Code states: “The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter.”

6. Section 3750 of the Code states, in pertinent part:

“The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

“ . . .

“(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

“ . . .

“(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500).

“ . . .

7. Section 3752 of the Code states:

“A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of any offense which substantially relates to the qualifications, functions, or duties of a respiratory care practitioner is deemed to

1 be a conviction within the meaning of this article. The board shall order the
2 license suspended or revoked, or may decline to issue a license, when the time for
3 appeal has elapsed, or the judgment of conviction has been affirmed on appeal or
4 when an order granting probation is made suspending the imposition of sentence,
5 irrespective of a subsequent order under Section 1203.4 of the Penal Code
6 allowing the person to withdraw his or her plea of guilty and to enter a plea of not
7 guilty, or setting aside the verdict of guilty, or dismissing the accusation,
8 information, or indictment.”

9 8. Section 118 of the Code states, in pertinent part:

10 “ . . .

11 “(b) The suspension, expiration, or forfeiture by operation of law of a
12 license issued by a board in the department, or its suspension, forfeiture, or
13 cancellation by order of the board or by order of a court of law, or its surrender
14 without the written consent of the board, shall not, during any period in which it
15 may be renewed, restored, reissued, or reinstated, deprive the board of its
16 authority to institute or continue a disciplinary proceeding against the licensee
17 upon any ground provided by law or to enter an order suspending or revoking the
18 license or otherwise taking disciplinary action against the licensee on any such
19 ground.

20 “(c) As used in this section, ‘board’ includes an individual who is
21 authorized by any provision of this code to issue, suspend, or revoke a license, and
22 ‘license’ includes ‘certificate,’ ‘registration,’ and ‘permit.’”

23 9. California Code of Regulations (“CCR”), title 16, section 1399.370, states,
24 in pertinent part:

25 “For the purposes of denial, suspension, or revocation of a license, a crime
26 or act shall be considered to be substantially related to the qualifications,
27 functions or duties of a respiratory care practitioner, if it evidences present or
28 potential unfitness of a licensee to perform the functions authorized by his or her

1 license or in a manner inconsistent with the public health, safety, or welfare. Such
2 crimes or acts shall include but not be limited to those involving the following:

3 “(a) Violating or attempting to violate, directly or indirectly, or assisting or
4 abetting the violation of or conspiring to violate any provision or term of the Act.

5 “... ”

6 “(c) Conviction of a crime involving driving under the influence or
7 reckless driving while under the influence.

8 “... ”

9 COST RECOVERY

10 10. Section 3753.5, subdivision (a) of the Code states, in pertinent part:

11 "In any order issued in resolution of a disciplinary proceeding before the board,
12 the board or the administrative law judge may direct any practitioner or applicant found to have
13 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the
14 investigation and prosecution of the case."

15 11. Section 3753.7 of the Code states:

16 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall
17 include attorney general or other prosecuting attorney fees, expert witness fees, and other
18 administrative, filing, and service fees."

19 12. Section 3753.1 of the Code states, in pertinent part:

20 "(a) An administrative disciplinary decision imposing terms of probation may
21 include, among other things, a requirement that the licensee-probationer pay the monetary costs
22 associated with monitoring the probation. . . ."

23 FIRST CAUSE FOR DISCIPLINE

24 (Conviction of a Crime)

25 13. Respondent is subject to disciplinary action under Code sections 3750(d),
26 3750(g), 3752, and CCR, title 16, sections 1399.370(a) and (c), in that he was convicted of a
27 crime substantially related to the qualifications, functions, or duties of a respiratory care
28 practitioner. The circumstances are as follows:

1 A. On or about January 3, 2007, in the case entitled *The*
2 *People of the State of California v. Mitchell P. Watson*, Case No. 05WM11683,
3 before the Superior Court of California, County of Orange, West Justice Center,
4 Respondent was convicted, on his guilty plea, of one count of driving under the
5 influence of alcohol, in violation of Vehicle Code section 23152(a), and one count
6 of driving with a blood alcohol content greater than 0.08%, in violation of Vehicle
7 Code section 23152(b). Respondent also admitted to the other allegations.

8 B. The circumstances of the conviction are as follows: On or
9 about October 23, 2005, Respondent was observed driving a vehicle without a
10 front license plate. Huntington Beach Police Officer Baggs (Officer Baggs)
11 attempted to pull over Respondent, but Respondent sped away at a high rate. To
12 keep up with Respondent, Officer Baggs was traveling at 65+ mph (in a 45 mph
13 zone). Respondent again pulled away at a high rate of speed. Respondent
14 eventually stopped in the parking lot of his residence. Upon contact with
15 Respondent, Officer Baggs observed several symptoms of intoxication and
16 administered field sobriety tests which Respondent failed. Respondent was
17 subsequently arrested.

18 C. On or about November 17, 2005, a Complaint was filed in
19 Superior Court of California, County of Orange, West Justice Center, entitled *The*
20 *People of the State of California v. Michael Phillip Watson*, Case No.
21 05WM11683, charging Respondent with one count of violating Vehicle Code
22 section 23152(a) [driving under the influence of alcohol/drugs with two priors].
23 As to this count, the complaint alleged violation of Vehicle Code section 23546 in
24 that within 10 years of the commission of the above offense, Respondent
25 committed and was convicted of two separate violations of Vehicle Code section
26 23103 as specified in sections 23103.5 and 23152. In Count 2 of the Complaint,
27 Respondent was charged with violating Vehicle Code section 23152(b) [driving
28 when blood alcohol .08% or more with two priors]. As to this count, the

1 complaint alleged violation of Vehicle Code section 23546 in that within 10 years
2 of the commission of the above offense, Respondent committed and was
3 convicted of two separate violations of Vehicle Code section 23103 as specified in
4 sections 23103.5, 23152, and 23153.

5 SECOND CAUSE FOR DISCIPLINE

6 (Conviction of a Crime Involving Driving Under the Influence)

7 14. Respondent is further subject to disciplinary action under CCR, title 16,
8 sections 1399.370(a) and (c), in that he was convicted of a crime involving driving under the
9 influence, as more particularly described in paragraph 12, above, which is incorporated by
10 reference as if fully set forth herein.

11 DISCIPLINE CONSIDERATIONS

12 15. To determine the degree of discipline, if any, to be imposed on
13 Respondent, Complainant alleges that in a disciplinary action entitled "In the Matter of the
14 Accusation Against Mitchell P. Watson," Case No. R-1868, the Respiratory Care Board, issued a
15 decision, effective August 9, 2004, in which Respondent's Respiratory Care Practitioner License
16 was revoked. However, the revocation was stayed and Respondent's license was placed on
17 probation for a period of two (2) years with certain terms and conditions. That decision is now
18 final and is incorporated by reference as if fully set forth.

19 PRAYER

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein
21 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

22 1. Revoking or suspending Respiratory Care Practitioner License No. 5655,
23 issued to Mitchell P. Watson Mitchell P. Watson.

24 2. Ordering Mitchell P. Watson to pay the Respiratory Care Board the costs
25 of the investigation and enforcement of this case, and if placed on probation, the costs of
26 probation monitoring;

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1 3. Taking such other and further action as deemed necessary and proper.

2 DATED: March 28, 2007

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Original signed by Liane Zimmerman for:
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant